

## CIVIL COVER SHEET

## APPENDIX H

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Gwendolyn Gibson

## DEFENDANTS

Home Depot U.S.A., Inc.

(b) County of Residence of First Listed Plaintiff Phila. (PA)

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Cobb (GA)

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Bruce W. Miller, Esquire  
Silver, Miller & DeVirgiliis  
1707 Rittenhouse Square  
Phila., PA 19103 / (215) 545-8424

Attorneys (If Known) Kenneth M. Dubrow, Esq.  
The Chartwell Law Offices, 1717 Arch St.  
Ste. 2920, Phila., PA 19103/(215) 972-7006

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | PTF                                     | DEF  | PTF   | DEF  |
|---|--|---|--|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2 <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	REAL PROPERTY	FORFEITURE/PENALTY	LABOR	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Sec. 1332 (a) and Sec. 1441 (a)

Brief description of cause:

negligence action

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

 DEMAND \$ 50,000.00  
 (in excess)

CHECK YES only if demanded in complaint:

JURY DEMAND: 1 Yes X No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

6/2/06

SIGNATURE OF ATTORNEY OF RECORD

Kenneth M. Dubrow, Esquire

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

## APPENDIX I

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Gwendolyn Gibson

V.

Home Depot USA Inc.

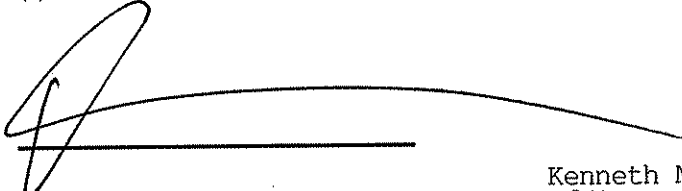
CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

  
 Date 6/2/06

 Kenneth M. Dubrow, Esquire  
 Attorney-at-law

Attorney for Defendant

 (215)972-7006  
 Telephone

 (215)972-7008  
 FAX Number

 kdubrow@chartwellllaw.com  
 E-Mail Address

## APPENDIX G

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

Gwendolyn Gibson

V.

Home Depot USA Inc.

Civil Action

No: \_\_\_\_\_

## DISCLOSURE STATEMENT FORM

Please check one box:



The nongovernmental corporate party, Home Depot U.S.A., Inc., in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.



The nongovernmental corporate party, \_\_\_\_\_, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6/2/06

Date

Signature

Counsel for: Defendant, Home Depot U.S.A., Inc.**Federal Rule of Civil Procedure 7.1 Disclosure Statement**

(a) WHO MUST FILE: NONGOVERNMENTAL CORPORATE PARTY. A nongovernmental corporate party to an action or proceeding in a district court must file two copies of a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.

(b) TIME FOR FILING; SUPPLEMENTAL FILING. A party must:

- (1) file the Rule 7.1(a) statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court, and
- (2) promptly file a supplemental statement upon any change in the information that the statement requires.

## UNITED STATES DISTRICT COURT

APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: P.O. Box 49001, Phila., PA 19141

Address of Defendant: 2455 Paces Ferry Road, Atlanta, GA 30339

Place of Accident, Incident or Transaction: 3215 N. York Road, Willow Grove, PA  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒  
RELATED CASE, IF ANY:

Case Number: N/A Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify) premises liability
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, \_\_\_\_\_, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs,
- ☐ Relief other than monetary damages is sought

DATE: \_\_\_\_\_ Attorney-at-Law \_\_\_\_\_ Attorney I.D.# \_\_\_\_\_

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 6/2/06

Kenneth M. Dubrow, Esquire

34665

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GWENDOLYN GIBSON	:	
	:	CIVIL ACTION
	:	
Plaintiff	:	
	:	
v.	:	
	:	NO.
HOME DEPOT USA INC.	:	
	:	
Defendant	:	

**NOTICE FOR REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §1441**

Defendant, Home Depot U.S.A., Inc. (misnamed above, Home Depot USA Inc.), hereby submits notice to the United States District Court for the Eastern District of Pennsylvania for the removal of the above entitled action to this Court, and in support thereof respectfully represents:

1. Defendant, properly named, Home Depot U.S.A., Inc., is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business located in the State of Georgia.

2. Upon information, knowledge and belief, Plaintiff, Gwendolyn Gibson, is an adult individual and is a citizen and resident of the Commonwealth of Pennsylvania, residing in Philadelphia, Pennsylvania.<sup>1</sup>

3. At all times material hereto, Defendant was duly

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<sup>1</sup> Plaintiff's address, as alleged in the Complaint, is a post office box in Philadelphia, Pennsylvania.

registered to do, and was doing, business in the Commonwealth of Pennsylvania.

4. On or about April 28, 2006, Plaintiff instituted the above action, by way of Complaint, a copy of which is attached hereto as Exhibit "A," in the Pennsylvania Court of Common Pleas, Philadelphia County, as of April Term, 2006; No. 3874, seeking damages for injuries Plaintiff sustained as a result of Defendant's alleged negligence.

5. Plaintiff has filed this matter as a "Major Non-Jury Case," seeking damages in excess of \$50,000.00, exclusive of interest and costs, the sum representing the arbitration limit established by the Commonwealth of Pennsylvania for Philadelphia County.

6. On May 31, 2006, Defendant's assistant counsel, Bryan P. Werley, Esquire ("Werley"), spoke, by telephone, with Plaintiff's counsel, Bruce W. Miller, Esquire ("Miller"), during which Mr. Miller represented that Plaintiff's claimed damages exceeded \$75,000.00 (exclusive of interest and costs). Mr. Miller's representation regarding the value of Plaintiff's instant claim is memorialized in Mr. Werley's letter of May 31, 2006, a copy of which is attached hereto as Exhibit "B."

7. Diversity of citizenship exists between Plaintiff, a citizen and resident of the Commonwealth of Pennsylvania, and



Defendant, a corporation organized and existing under the laws of the State of Delaware and having its principal place of business in the State of Georgia.

8. The said diversity of citizenship existed at the time the action sought to be removed was commenced and continues to the time of the filing of this Notice. Therefore, as to said claim and cause of action, Defendant is entitled to removal pursuant to 28 U.S.C. §1441, et seq.

9. This Notice of Removal is timely under 28 U.S.C. §1446(b) as it is being filed within thirty (30) days after receipt by Defendant of Plaintiff's Complaint.

WHEREFORE, the above action now pending against Defendant in the Pennsylvania Court of Common Pleas, Philadelphia County is removed therefrom to this Honorable Court.

Respectfully submitted,

THE CHARTWELL LAW OFFICES, LLP

BY: 

KENNETH M. DUBROW, ESQUIRE  
Identification No. 34665  
The Bell Atlantic Tower Building  
1717 Arch Street, Suite 2920  
Philadelphia, PA 19103  
(215) 972-7006

Attorney for Defendant,  
Home Depot U.S.A., Inc.

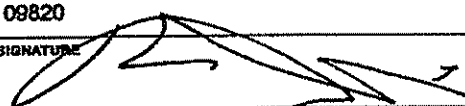
Exhibit A



**Court of Common Pleas of Philadelphia County**  
**Trial Division**  
**Civil Cover Sheet**

For Prothonotary Use Only (Docket Number)

**APRIL 2006****003874**

PLAINTIFF'S NAME <b>Gwendolyn Gibson</b>		DEFENDANT'S NAME <b>Home Depot USA Inc.</b>	
PLAINTIFF'S ADDRESS <b>P.O. Box 49001 Philadelphia, PA 19141</b>		DEFENDANT'S ADDRESS <b>2200 Oregon Avenue Philadelphia, PA 19145</b>	
PLAINTIFF'S NAME		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS	
PLAINTIFF'S NAME		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS	
TOTAL NUMBER OF PLAINTIFFS <b>1</b>	TOTAL NO. OF DEFENDANTS <b>1</b>	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input checked="" type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other: _____		
CASE TYPE AND CODE (SEE INSTRUCTIONS) <b>2S</b>			
STATUTORY BASIS FOR CAUSE OF ACTION (SEE INSTRUCTIONS) <b>N/A</b>			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER) <b>N/A</b>			IS CASE SUBJECT TO COORDINATION ORDER? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>TO THE PROTHONOTARY:</b> Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY <b>Bruce W. Miller, Esquire</b>		ADDRESS (SEE INSTRUCTIONS) <b>1707 Rittenhouse Square Philadelphia, PA 19103</b>	
PHONE NUMBER <b>(215) 545-8424</b>	FAX NUMBER <b>(215) 893-8653</b>		
SUPREME COURT IDENTIFICATION NO. <b>09820</b>		E-MAIL ADDRESS	
SIGNATURE 		DATE	

**AVISO**

Le han demandado en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

**LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SINO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.**

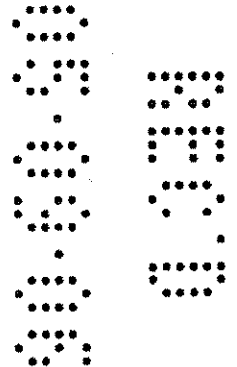
**ASOCIACION DE LICENCIADOS DE FILADELFIA**

**Servicio De Referencia E Informacion Legal**

**1101 Market Street**

**Filadelfia, Pennsylvania 19107**

**Telefono: (215) 238-6333**



**ATTEST**

APR 28 2006

**SILVER, MILLER & DeVIRGILIS**  
**BY: Bruce W. Miller, Esquire**  
**IDENTIFICATION NO.: 09820**  
**1707 RITTENHOUSE SQUARE**  
**PHILADELPHIA, PA 19103**

**ATTORNEY FOR PLAINTIFF J. COURTNEY**

Gwendolyn Gibson  
P.O. Box 49001  
Philadelphia, PA 19141

: COURT OF COMMON PLEAS  
: PHILADELPHIA  
:

v.

Home Depot USA Inc.  
2200 Oregon Avenue  
Philadelphia, PA 19145

: **APRIL 2006**

APRIL 2006  
Term, 2006

: No.  
:

003874

JAN 02 2007

**CIVIL ACTION - LAW**  
**Premises Liability 2-S**

DISCOVERY DEADLINE

**NOTICE**

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

**PHILADELPHIA BAR ASSOCIATION**  
**Lawyer Referral and Information Service**  
**1101 Market Street**  
**Philadelphia, PA 19107**  
**Telephone: (215) 238-6333**

**SILVER, MILLER & DeVIRGILIS**

**BY: Bruce W. Miller, Esquire**

**IDENTIFICATION NO.: 09820**

**1707 RITTENHOUSE SQUARE**

**PHILADELPHIA, PA 19103**

**ATTORNEY FOR PLAINTIFF**

**MAJOR JURY TRIAL**

Gwendolyn Gibson  
P.O. Box 49001  
Philadelphia, PA 19141

v.

Home Depot USA Inc.  
2200 Oregon Avenue  
Philadelphia, PA 19145

: COURT OF COMMON PLEAS

: PHILADELPHIA

:

:

:

: No.

:

Term, 2006

**CIVIL ACTION - LAW**  
**2S - PREMISES LIABILITY**

1. Plaintiff, Gwendolyn Gibson, is an individual residing at the above-captioned address.

2. Defendant, Home Depot USA Inc. (hereinafter referred to "Depot"), is believed to be a Pennsylvania Corporation duly organized to do and at the time of this accident was doing business in the City and County of Philadelphia, with a place of business located at the above-captioned address.

3. At all such times relevant hereto, Defendant, Depot, did own, manage, possess and/or control the real property located at 315 North York Road, Willow Grove, Pennsylvania.

4. On or about July 5, 2004 and for a long period of time prior thereto, there existed a dangerous and defective condition upon the premises situated at 315 North York Road, Philadelphia, Pennsylvania.

5. It was the duty of the defendant, by and through their agents, servants, workmen and/or employees, to keep and maintain the said premises in a reasonably safe condition for public travel thereon.

6. On or about July 5, 2004, plaintiff was lawfully upon defendant's premises located at 315 N. York Road, Willow Grove, Pennsylvania, and was seriously injured while she was intending to purchase a "weed whacker" which was on display in the seasonal section of the store.

7. While plaintiff was shopping for a weed whacker on the aforesaid date, an employee of the Defendant who was waiting on the Plaintiff, suddenly and without warning reached up and dislodged the display above the plaintiff's head, causing several items to fall striking the Plaintiff in the head, neck shoulders and other areas of the body.

8. As a result of the negligence, carelessness and recklessness of the defendant, by and through their agents, servants, workmen and/or employees, plaintiff suffered serious and painful injuries as hereinafter described.

9. The negligence, carelessness and recklessness of the defendant by and through their agents, servants, workmen and employees, consisted of the following:

a) permitting or allowing a dangerous and defective condition to exist in and upon the premises owned and supervised by them after they had, or in the exercise of reasonable care, should have had actual or constructive notice of said condition;

b) failing to give plaintiff proper and due notice of the dangerous condition existing on their premises;

c) failing to place warnings or barricades at the point of the accident to prevent the occurrence heretofore mentioned;

d) failing to properly place items for sale on display in a safe manner

e) failing to give plaintiff proper and adequate protection to which she is entitled;

f) failing to take reasonable steps to repair their premises so as to abate the aforesaid dangerous condition;

g) negligence as a matter of law; and

h) negligence in other respects which may well be pointed out at time of trial.

10. As a result of the aforesaid negligence, carelessness and recklessness of the defendant, plaintiff suffered cervical sprain and strain with myoligamentus injury secondary to blunt trauma; sprain and strain of the left shoulder secondary to blunt trauma; herniated disc at C6-7, C4-5; herniated disc at L3-4 and L5-S1; lumbar radiculopathy; peripheral impairment of the left and right shoulders together with contusions, abrasions, lacerations and hematoma, by reason of which plaintiff has suffered mental anguish, physical pain and inconvenience, and is so likely to suffer in the future, plaintiff believes and therefore avers that her injuries are serious and permanent in nature and she is entitled to recover non-economic losses.

11. As a further result of the aforesaid occurrence, plaintiff has been prevented from attending to her usual and daily activities and duties and will continue to be prevented from attending to these activities and duties for an indefinite time in the future, to her great detriment and loss.

12. As a further result of the aforesaid negligence and carelessness of the defendant, the plaintiff has been compelled in order to effectuate a cure for the aforesaid injuries, to expend sums of money for medicine and medical attention and may be required to expend additional sums for the same purpose in the future.

13. As a further result of the aforesaid negligence and carelessness of the defendant, the plaintiff has suffered physical pain and mental anguish and humiliation and may continue to suffer same for an indefinite period of time in the future.

14. As a further result of the aforesaid negligence and carelessness of the defendant, the plaintiff has incurred other financial losses or expenses which do or may exceed amounts which she may otherwise be entitled to recover and may continue to suffer said losses for an indefinite period of time in the future, all to her great detriment and loss.

15. As a further result of the aforesaid occurrence, the plaintiff has been obliged to receive and undergo medical attention and care and to expend various sums of monies and to incur various expenses in excess of her medical benefits as set forth in the Financial Responsibility Act, 75 P.S. § 1701, et seq.



16. As a further result of the aforesaid occurrence, plaintiff has been unable to follow her usual and daily occupation and will be prevented from following it for some time in the future, thereby losing the emoluments which would have come to her through employment.

WHEREFORE, Plaintiff, Gwendolyn Gibson, demands judgment against the defendant in a sum in excess of Fifty Thousand Dollars (\$50,000.00).

SILVER, MILLER & DEVIRGILIS

BY:

  
BRUCE W. MILLER, ESQUIRE  
Attorney for Plaintiff

000000  
000000  
000000  
000000  
000000  
000000

**VERIFICATION**

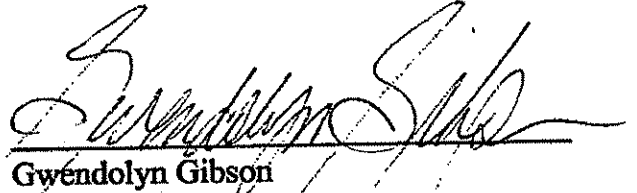
I, Gwendolyn Gibson, hereby state that I am the Plaintiff in the foregoing matter and that the statements made in the foregoing Civil Action Complaint are true and correct to the best of my knowledge, information and belief.

I understand that the aforementioned statements are made subject to the penalties of 18 Pa.C.S. §4904 relating to the unsworn falsification to authorities.

Dated:

4/4/06

By:

  
Gwendolyn Gibson

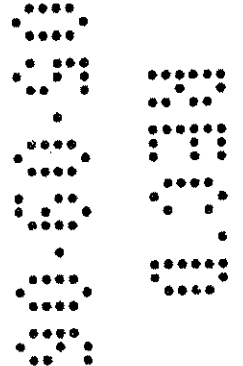


Exhibit B

THE *CHARTWELL*  
LAW OFFICES, LLP

Reply To: Philadelphia  
Office Line: (215) 972-7006  
E-Mail: [bwerley@chartwelllaw.com](mailto:bwerley@chartwelllaw.com)

May 31, 2006

Bruce W. Miller, Esquire  
Silver, Miller & DeVirgilis  
1707 Rittenhouse Square  
Philadelphia, PA 19103

RE: Gwendolyn Gibson v. Home Depot USA Inc.  
C.P., Philadelphia Cty., April Term, 2006 No. 3874

Dear Mr. Miller:

Per our telephone conversation, this date, this will again confirm this office serves as counsel for Defendant, properly named, Home Depot U.S.A., Inc., in connection with the above matter. This will further confirm your representation that Plaintiff is unwilling to cap her damages at less than \$75,000.000 (exclusive of interest and costs); hence, based upon diversity of citizenship, Defendant will be removing the within action to federal court.

Thank you for your attention herein.

Very truly yours,

  
BRYAN P. WERLEY

Valley Forge Office  
Valley Forge Corporate Center  
2621 Van Buren Avenue  
Norristown, PA 19403  
(610) 666-7700  
(610) 666-7704 (fax)

Philadelphia Office  
Bell Atlantic Tower  
1717 Arch Street, Suite 2920  
Philadelphia, PA 19103  
(215) 972-7006  
(215) 972-7008 (fax)

Pittsburgh Office  
409 Broad Street  
Suite 200  
Sewickley, PA 15143  
(412) 741-0600  
(412) 741 0606 (fax)

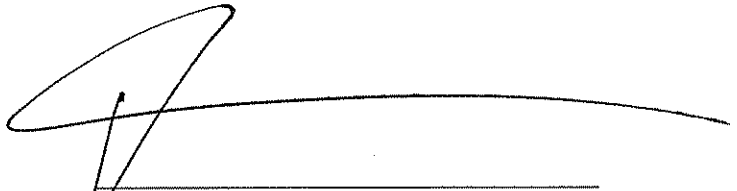
Harrisburg Office  
1017 Mumma Road  
Suite 100  
Wormleysburg, PA 17043  
(717) 909-5170  
(717) 909-5173 (fax)

[info@chartwelllaw.com](mailto:info@chartwelllaw.com)  
[www.chartwelllaw.com](http://www.chartwelllaw.com)

COMMONWEALTH OF PENNSYLVANIA :  
:  
COUNTY OF PHILADELPHIA : SS.  
:  
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**AFFIDAVIT**

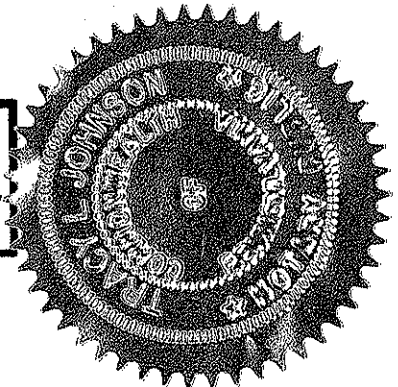
KENNETH M. DUBROW, ESQUIRE, being duly sworn according to law, deposes and says that he is the attorney for Defendant, Home Depot U.S.A., Inc.; that, he has read the foregoing Notice and knows the contents thereof; that, he is authorized to make this Affidavit on behalf of Home Depot U.S.A., Inc.; and, that the facts alleged in the Notice are true and correct to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
KENNETH M. DUBROW, ESQUIRE

Sworn to and subscribed  
before me this 2nd day  
of JUNE 2006.

  
\_\_\_\_\_  
Notary Public

NOTARIAL SEAL  
TRACY L. JOHNSON  
Notary Public  
PHILADELPHIA CITY, PHILADELPHIA COUNTY  
My Commission Expires Jan 12, 2010



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GWENDOLYN GIBSON	:	
	:	CIVIL ACTION
	:	
Plaintiff	:	
	:	
v.	:	
	:	NO.
HOME DEPOT USA INC.	:	
	:	
Defendant	:	

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2006, a true and correct copy of the Notice for Removal of Action pursuant to 28 U.S.C. §1441 filed by Defendant, Home Depot U.S.A., Inc., was served upon the following by United States first class mail, postage pre-paid, addressed as follows:

Bruce W. Miller, Esquire  
Silver, Miller & DeVirgilis  
1707 Rittenhouse Square  
Philadelphia, PA 19103

THE CHARTWELL LAW OFFICES, LLP

Dated: 6/2/06

BY: 

KENNETH M. DUBROW, ESQUIRE  
Attorney for Defendant,  
Home Depot U.S.A., Inc.